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July 31, 1996

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Secretary Caton,

Enclosed please find fourteen copies of our formal comments in reference to FCC 96-236, MM Docket No. 96-120, RM-7651, titled "Grandfathered Short-Spaced FM Stations".

Thank you for consideration of our opinions and suggestions.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Proctor".

Deborah S. Proctor  
General Manager

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of: ) FCC 96-236  
)  
Grandfathered Short-Spaced ) MM Docket No. 96-120  
FM Stations ) RM-7651

Reply Comments of EDUCATIONAL INFORMATION CORPORATION

The commentor operates noncommercial educational station WCPE in Raleigh, North Carolina, and feels well versed in the matter of short spaced second and third adjacent experience. In fact, Educational Information Corporation is referenced several times in the Notice of Proposed Rulemaking under consideration.

We feel it is a major oversight not to include in the present proceeding the noncommercial stations which are similarly grandfathered. There is no technical justification not to do so. Despite the fact that some may feel the matter of second and third adjacent noncommercial overlap has been adequately dealt with (see Note 25 of the NPRM) we do not. We are the reference cited in Note 25.

Commercial and noncommercial FM signals travel, interact, and are received identically, using identical transmitters, transmission line, towers, antennas, and receivers. FCC noncommercial overlap ratios date from the 1950's and were not updated pursuant to the Institute for Telecommunications Sciences of the National Telecommunications and Information Administration (NTIA) study which concluded that the FCC standards for second channel interference are overly restrictive (see Haakinson and

Adams, "Coverage and Interference for Second-Adjacent Channel FM Broadcast Stations", IEEE Transactions on Broadcasting, Volume BC-26, No.4, December 1980).

Although good for their vintage, yesteryear's vacuum tube sets pale to today's receivers and their ability to tolerate very strong second and third adjacent signals. Forty years of advancements provide greatly improved performance. The NTIA study recommended relaxing the second channel adjacent overlap ratio by 30 dB. The commercial ratio was updated by 20 dB as a result of the NTIA study, but the noncommercial ratio remains as it was almost half a century ago. This is illogical.

Good regulatory practice should attempt to eliminate inequalities and achieve uniform regulation while allowing flexibility in specific situations. The role of the FCC should be to take a stand for efficiency, fairness, and the public interest. This enhances the ability to regulate reasonably and prudently in deserving cases.

This rulemaking proposes setting the protected contour at the 1 mV/m (60 dBu F[50,50]) contour with the interfering co-channel signal limited to the 0.1 mV/m (40 dBu F[50,10]) contour. This is identical with the noncommercial standard.

This rulemaking proposes limiting the interfering first adjacent channel signal at the 0.5 mV/m (54 dBu F[50,10]) level at the protected station's 1 mV/m (60 dBu F[50,50]) contour. This is identical with the noncommercial standard.

Currently, the second adjacent channel overlap for noncommercial stations is limited to the 10 mV/m (80 dBu

F[50,10]) contour at the protected station's 1 mV/m (60 dBu F[50,50]) contour, but for commercial station this has been updated to the 100 mv/m (100 dBu F[50,10]) at the protected station's 1 mV/m (60 dBu F[50,50]) contour. This is an obvious discrepancy of 100 times (20 dB) and is technically unjustified.

However, this is moot for this argument as this rulemaking proposes eliminating the interfering second adjacent channel signal restraint for commercial grandfathered stations. (The basic question of why this difference exists is quite justified but will not be addressed in this particular forum.)

Currently, the third adjacent channel overlap for noncommercial stations is limited to the 100 mV/m (100 dBu F[50,10]) contour at the protected station's 1 mV/m (60 dBu F[50,50]) contour. This is identical with the commercial standard.

This rulemaking proposes eliminating the interfering third adjacent channel signal restraint for grandfathered stations.

WCPE has operated in two short spaced situations. Our original facility operated with an ERP of 12,500 watts and was short spaced with a 3,000 watt third adjacent station causing theoretical overlap to the original WCPE facility. In order to obtain the original waiver, the Corporation only needed to acknowledge the potential for overlap and state in writing to accept any actual overlap. The Commission accepted our cognizance of potential overlap and granted a construction permit (BMPED-1,234) without concern on June 21, 1977. The grant was prudent and proved uneventful.

WCPE began accepting potential second adjacent channel overlap when it began broadcasting on September 15, 1993 pursuant to the facilities granted under permit BPED-840328CA which was granted on May 31, 1991. The grant of the permit took seven years and a Petition for Reconsideration accompanied by thirty-six thousand signatures.

The view of the Commission on the impact of second and third adjacent overlap to life as we know it changed drastically from tolerance to suppression between 1977 and 1991. Whereas one might feel the 1977 Commission was overly lenient from the standpoint of the ease of obtaining a waiver, similarly, the 1991 Commission stance was overly strict to the point of catatonic rigidity.

Such is not appropriate to a federal agency charged with serving the public interest and convenience.

Regulatory flexibility is called for in the case of noncommercial stations like WCPE who are already involved in second and third channel overlap situations and who wish to upgrade service to their listeners. This rulemaking proceeding is the correct forum for this argument -- ensuring equity and equality of the FM overlap rules.

It is time for the pendulum to swing towards center and come to rest at a proper balance.

We wish to stand in support of the proposed rulemaking -- with an amendment to include the noncommercial FM stations which

are similarly short spaced. The FM rules should be equalized by adding to the noncommercial FM section of the rules a parallel to the proposed paragraph 73.213; to wit: "Noncommercial stations at locations authorized prior to June 1, 1991 that did not meet the separation distances required by paragraph 73.509 and have remained short-spaced since that time may be modified ..." etc.

The overlap rules for grandfathered noncommercial stations should not and need not in any way be different from the rules for commercial stations insofar as grandfathering overlap is concerned. The laws of physics don't change when crossing a state line or a country border -- or when crossing "92" on the FM dial.

*"There is no technical justification for the disparate treatment of similar situations. We have seen nothing in the record to persuade us otherwise. We believe that it is good public policy for our technical allotment and assignment requirements to be based upon reasonably derived and consistently applied technical standards. We believe that licensees of certain classes of FM stations should not be unnecessarily constrained by an inconsistent technical standard, while others, operating under a less restrictive standard, do not appear to have experienced any significant problems over the years."*